

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

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In re: Building Materials Corporation of  
America Asphalt Roofing Shingle Products  
Liability Litigation MDL 2283

Management Case No. 8:11MN2000-JMC

This filing relates to the Management File here  
captioned and the following related civil  
actions:

All Actions

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**PRETRIAL ORDER NO. 1**

The Judicial Panel on Multidistrict Litigation has transferred certain products liability actions relating to Building Materials Corporation of America shingles to this Court for coordinated pretrial proceedings. The Court has received a joint application for the designation of counsel to act on behalf of the Plaintiffs in this litigation.

The Court has carefully reviewed the proposed designations and the information supplied in support thereof and hereby makes the following designations:

**A. Plaintiffs' Co-Lead Counsel**

The Court designates the following Co-Lead Counsel to act on behalf of Plaintiffs:

A. G. Solomons, III  
Speights & Runyan  
200 Jackson Avenue East  
Post Office Box 685  
Hampton, SC 29924  
Phone: (803) 943-4444  
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Email:  
gsolomons@speightsrunyan.com

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Pope and Hudgens, P.A.  
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Post Office Box 190  
Newberry, SC 29108  
Phone: (803) 276-2532  
Fax: (803) 276-8684  
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[thpope@popeandhudgens.com](mailto:thpope@popeandhudgens.com)

Shawn M. Raiter  
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Plaintiffs' Co-Lead Counsel will be responsible for coordinating the activities of Plaintiffs during pretrial proceedings and will:

1. Determine and present to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;
2. Initiate and coordinate discovery on behalf of Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery or any other subsequent order of this Court;
3. Conduct settlement negotiations on behalf of Plaintiffs;
4. Delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for Plaintiffs is conducted effectively, efficiently, and economically;
5. Stipulate with opposing counsel on issues relating to the litigation;
6. Prepare and distribute periodic status reports to the parties;
7. Maintain adequate time and disbursement records covering services of designated counsel and establish guidelines for approval by the Court as to the keeping of time records and expenses;
8. Monitor the activities of Plaintiffs' designated counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
9. Perform such other duties as may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by further Order of the Court; and
10. Submit, if appropriate, additional counsel for designation by the Court.

The Court expects that Plaintiffs' Co-Lead Counsel will use their best efforts and do all that is feasible to coordinate among Plaintiffs and assert a single common position on Plaintiffs' behalf throughout this litigation. Counsel for Plaintiffs who cannot come to a resolution with Plaintiffs' Co-Lead Counsel concerning particular issues on which they take materially divergent positions

may, if necessary, move this Court to present separate written and oral arguments or otherwise act separately on behalf of their client(s) as appropriate, provided that in doing so they do not repeat arguments, questions, or actions of the Plaintiffs' Co-Lead Counsel.

**B. Plaintiffs' Steering Committee**

To act on behalf of Plaintiffs, the Court hereby designates the following attorneys as the Plaintiffs' Steering Committee:

Shanon J. Carson  
Berger & Montague, P.C.  
1622 Locust Street  
Philadelphia, PA 19103  
Phone: (215) 875-4656  
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Christopher L. Coffin  
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Plaintiffs' Steering Committee shall assist Plaintiffs' Co-Lead Counsel, as directed by Co-Lead Counsel, in coordinating the Plaintiffs' pretrial activities and in planning for trial and shall assist with the pretrial preparation of this litigation as requested by Plaintiffs' Co-Lead Counsel.

**C. Plaintiffs' Liaison Counsel**

To further the orderly progress of this litigation, the Court appoints the following Plaintiffs' Liaison Counsel:

Daniel A. Speights  
Speights & Runyan  
200 Jackson Avenue East  
Post Office Box 685  
Hampton, SC 29924  
Phone: (803) 943-4444  
Fax: (803) 943-4599  
Email: [dspeights@speightsrunyan.com](mailto:dspeights@speightsrunyan.com)

Plaintiffs' Liaison Counsel shall work in conjunction with Plaintiffs' Co-Lead Counsel and shall:

1. Serve as intermediary between Plaintiffs' counsel and the Court;
2. Maintain and distribute up-to-date service lists; and
3. Receive, and as appropriate, distribute orders from the Court and documents from plaintiffs' counsel, opposing parties and counsel.

**D. Designation of Defendant's Lead Counsel**

To act on behalf of Defendant, the Court designates the following Lead Counsel:

David B. Tulchin  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, NY 10004  
Phone: (212) 558-3749  
Fax: (212) 558-3588  
Email: [tulchind@sullcrom.com](mailto:tulchind@sullcrom.com)

**E. Compensation and Time and Expense Records**

For all time expended in the MDL case and subsequent remand proceedings, Counsel who anticipate seeking an award of attorneys' fees and reimbursement of expenditures from the Court and paid by the Defendant must comply with the directives contained in The Manual for Complex Litigation, Fourth § 40.23, regarding the maintenance and filing of contemporaneous records reflecting the services performed and the expenses incurred. As provided in The Manual for Complex Litigation, Fourth § 40.23 n.1 (citing §§ 14.21-14.22), in the event that plaintiffs' counsel later seeks an award of fees and expenses to be paid by Defendant, all counsel for plaintiffs must abide by the following guidelines:

1. All projects should be staffed economically and effectively. Senior attorneys should not bill time for work that is suitable for less senior attorneys. Senior attorney rates will be paid only for work that warrants the attention of a senior attorney. Duplication of efforts must be avoided, and all time recorded must be reasonable and appropriate in view of the tasks at hand and the status of the action.
2. No more than one attorney may charge for time spent defending the deposition of a witness.
3. No more than two attorneys may charge for time spent taking the deposition of a witness, unless the examining attorney determines that the attendance of a third attorney is absolutely necessary or where, consistent with Section 15(b) of Pretrial Order No. 2, there is a sufficient divergence of positions among the plaintiffs such that additional examiners may be appropriate on non-redundant subject matters.
4. When it is necessary for plaintiffs to be represented in court for a hearing, argument or conference, no more than four lawyers designated by Plaintiffs' Co-

Lead Counsel, may charge for time spent attending such hearing or argument or conference, unless, as provided in Section A of this Order, counsel for plaintiffs with materially divergent positions have obtained leave of this Court to present separate arguments or otherwise act separately on behalf of their client(s), provided that in doing so they do not repeat arguments, questions, or actions of other counsel.

5. Reimbursement will be allowed for the reasonable expense of necessary travel, hotel accommodations and meals. Work should be assigned so as to minimize the need for travel. The Court will not consider reimbursing unnecessary expenses such as first class airfare or inordinately expensive hotel rooms.
6. Secretarial or clerical work is not reimbursable as an expense.

Plaintiffs' Co-Lead Counsel shall establish more detailed procedures for the documentation of time and expense incurred by plaintiffs' counsel for work done for the common benefit of the plaintiffs in this litigation. Plaintiffs' Co-Lead Counsel may also make assessments to the members of the Plaintiffs' Steering Committee for costs associated with the work done for the common benefit of the plaintiffs. Plaintiffs' counsel intending to seek reimbursement of expenses incurred for the common benefit of the plaintiffs in this MDL are advised that the Court will not consider reimbursing unnecessary expenses.

**IT IS SO ORDERED.**



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Honorable J. Michelle Childs  
United States District Court Judge

March 15, 2012  
Greenville, South Carolina